

## Merit Systems Protection Board

## Pt. 1210

(iii) Any documentation relevant to the agency's position on these issues.

[55 FR 28592, July 12, 1990, as amended at 59 FR 65243, Dec. 19, 1994; 78 FR 39548, July 2, 2013]

### **§ 1209.10 Hearing and order ruling on stay request.**

(a) *Hearing.* The judge may hold a hearing on the stay request.

(b) *Order ruling on stay request.* (1) The judge must rule upon the stay request within 10 days (excluding Saturdays, Sundays, and Federal holidays) after the request is received by the appropriate Board regional or field office.

(2) The judge's ruling on the stay request must set forth the factual and legal bases for the decision. The judge must decide whether there is a substantial likelihood that the appellant will prevail on the merits of the appeal, and whether the stay would result in extreme hardship to the agency.

(3) If the judge grants a stay, the order must specify the effective date and duration of the stay.

[55 FR 28592, July 12, 1990, as amended at 59 FR 65243, Dec. 19, 1994]

### **§ 1209.11 Duration of stay; interim compliance.**

(a) *Duration of stay.* A stay becomes effective on the date specified in the judge's order. The stay will remain in effect for the time period set forth in the order or until the Board issues a final decision on the appeal of the underlying personnel action that was stayed, or until the Board vacates or modifies the stay, whichever occurs first.

(b) *Interim compliance.* An agency must immediately comply with an order granting a stay request. Although the order granting a stay request is not a final order, petitions for enforcement of such orders are governed by 5 CFR part 1201, subpart F.

## **Subpart D—Reports on Applications for Transfers**

### **§ 1209.12 Filing of agency reports.**

When an employee who has applied for a transfer to another position in an Executive agency under 5 U.S.C. 3352 asks the agency head to review a rejection

of his or her application for transfer, the agency head must complete the review and provide a written statement of findings to the employee and the Clerk of the Board within 30 days after receiving the request.

## **Subpart E—Referrals to the Special Counsel**

### **§ 1209.13 Referral of findings to the Special Counsel.**

When the Board determines in a proceeding under this part that there is reason to believe that a current Federal employee may have committed a prohibited personnel practice described at 5 U.S.C. 2302(b)(8) or (b)(9)(A)(i), (B), (C), or (D), the Board will refer the matter to the Special Counsel to investigate and take appropriate action under 5 U.S.C. 1215.

[78 FR 39548, July 2, 2013]

## **PART 1210—PRACTICES AND PROCEDURES FOR AN APPEAL OF A REMOVAL OR TRANSFER OF A SENIOR EXECUTIVE SERVICE EMPLOYEE BY THE SECRETARY OF THE DEPARTMENT OF VETERANS AFFAIRS**

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